

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

REQUEST TO ENTER DEFAULT

TO: THE CLERK OF THE ABOVE-ENTITLED COURT

Plaintiffs hereby request that the Clerk enter default in this matter against Defendant on the ground that Defendant has failed to appear or otherwise respond to the Complaint within the time prescribed by the Federal Rules of Civil Procedure. Declaration of Colin J. Zick ¶ 6.

Plaintiffs served the Summons and Complaint on Defendant on July 22, 2004, by abode service, as evidenced by the proof of service on file with this Court. Id. ¶ 2. Plaintiffs granted Defendant an extension up to August 23, 2004 to respond to the Complaint. That extension has expired. Id. ¶ 5. Plaintiffs have sent Defendant two letters on August 31, 2004 and September 7, 2004 urging Defendant to file a response and advising Defendant that Plaintiffs intended to seek a default judgment. Id. ¶ 4. The parties engaged in settlement discussions, and Plaintiffs were of the belief that on or about October 4, 2004, the parties had reached an agreement in principle as

to settlement terms. Subsequently, however, Defendant has refused to execute the relevant settlement documents. Id. ¶ 7. On December 15, 2004, Plaintiffs' California counsel sent Defendant a third letter reminding him of the agreed settlement terms and requesting a response from him in seven days. No response was received. On January 5, 2005, Plaintiffs' California counsel called the Defendant's residence and spoke with the Defendant's wife. The Defendant's wife stated that Mr. Thurston was not there and took counsel's telephone number. Plaintiffs' counsel has not received any call or other communication from Defendant since January 5, 2005. Id. ¶ 8. Plaintiffs are informed and believe that Defendant is not an infant or incompetent person or in the military service. Id. ¶ 9-10.

LOUD RECORDS, LLC; UMG RECORDINGS, INC.; SONY MUSIC ENTERTAINMENT INC.; ELEKTRA ENTERTAINMENT GROUP INC.; and INTERSCOPE RECORDS

By their attorneys,

DATED: January 20, 2005

By: /s/ Gabriel M. Helmer

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